

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDWARD ZYBURO, on behalf of himself	:	
and all others similarly situated,	:	12-cv-6677
	:	
Plaintiffs,	:	<u>ORDER</u>
	:	
-v-	:	
	:	
NCSPLUS, INC.,	:	
	:	
Defendant.	:	
-----x		
JED S. RAKOFF, U.S.D.J.		9/24/14

This is an action brought under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C § 227 et seq., which prohibits certain kinds of telephone solicitations without the recipient's consent. On September 15, 2014, the Court certified a class consisting of all persons in the United States whose cellular telephones were called by NCSPlus Inc. using an automatic telephone dialing system with the capacity to store or produce telephone numbers, including, but not limited to, an automated dialing machine, auto-dialer or predictive dialer, and/or utilizing an artificial or prerecorded voice, without such persons' prior express consent, between August 31, 2008 and August 31, 2012, excluding the defendant, its officers, employees and assigns, and the Court and its employees (hereinafter, the "Class").

Now, in accordance with prior written submissions and the telephonic conference held earlier today, the Court approves Plaintiff's Proposed Notice and Plan of Distribution, which requires: 1) defendant to provide plaintiff, on or before October 7, 2014, the account information associated with each telephone number dialed by NCSPlus during the relevant Class Period; 2) Notice to the Class to be mailed in post-card format on or before October 17, 2014; 3) a deadline to opt out of the Class set for November 17, 2014; and 4) an in-court Preliminary Approval Hearing scheduled for November 25, 2014 at 11:00am.

Additionally, in the teleconference today, both parties represented that no summary judgment motions in this case will be filed and that both sides consented to a bench trial. Accordingly, a final pre-trial conference is set for January 20, 2015 at 4:00pm, and the bench trial shall commence at 9:00am on January 26, 2015.

SO ORDERED.

Dated: New York, NY
September 23, 2014


JED S. RAKOFF, U.S.D.J.

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Draft Postcard Language:

NOTICE OF CLASS ACTION LAWSUIT

Zyburo v. NCSPlus Inc., Case No. 12-cv-06677 (S.D.N.Y.)

Your legal rights may be affected by this lawsuit.

**If You Received an Automated or Prerecorded Debt Collection Call from NCSPlus Inc.
on Your Cell Phone Without Prior Express Consent, You Are a Member
of This Class Action Lawsuit.**

Who Is a Class Member? – You are a member of a class action lawsuit recently certified by the Court because you have been identified as receiving a non-emergency, debt collection call placed by NCSPlus Inc. to your cell phone using an automatic dialing system and/or an artificial or prerecorded voice without your prior express consent or after you revoked consent for such calls between August 31, 2008 and August 31, 2012. Excluded from the class are NCSPlus Inc., its officers, employees and assigns, and the Court and its employees, as well as all persons who validly request exclusion from the class.

Your Rights and Options – If you do NOT want to participate in this class action, you may exclude yourself from the case by submitting a written request postmarked by ~~DATE~~ ^{Nov. 17, 2014}. If you do not exclude yourself, you will be bound by all future decisions in this case, including the terms of any settlement that may be reached, and you will give up your right to individually sue NCSPlus Inc. regarding the claims in this case.

This notice is only a summary. Complete information about the lawsuit, including your rights and options are available at www.ZyburoClassAction.com. If you do not have access to a computer, or have additional questions, you can telephone the Claims Administrator at NUMBER. Please do not call the Court. The Court authorized this notice. This is not a solicitation for a lawyer and you are not being sued.

